

FILED

08 MAY 13 AM 9:35

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NUNC PRO TUNC

MAY 09 2008

1 Chad McKinney
2 Pro Se
3 6266 Madeline St Apt #61
4 San Diego, CA 92115
5 619-634-3566

BY: 

DEPUTY

THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

CHAD MCKINNEY, an individual,

Plaintiff,

v.

APOLLO GROUP INC., UNIVERSITY OF
PHOENIX, a Corporation, MECHELLE
BONILLA, an Enrollment Manager at
UNIVERSITY OF PHOENIX, KYAN
FLYNN, Director of Enrollment at
UNIVERSITY OF PHOENIX, APRIL
ALCORN, an Employee Relations
Consultant at UNIVERSITY OF PHOENIX
CARLYN LINDSTEN, Associate Director of
Enrollment at UNIVERSITY OF PHOENIX

Defendants

) CIV. Case No.07-cv-2373
)
) FOR VIOLATION OF FEDERAL
) FALSE CLAIMS ACT AND FOR
) VIOLATION OF THE
) THE CIVIL RIGHTS ACT 1964 AND
) THE AMENDMENTS TO TITLE
) VII OF THE CIVIL RIGHTS ACT OF
) 1991

) RETALIATION- WRONGFUL
) TERMINATION &
) EMPLOYMENT DISCRIMINATION
) CIVIL ACTION

) **PLAINTIFF'S MOTION TO STRIKE**
) **THE DEFENDANTS' NOTICE OF**
) **NON- OPPOSITION TO MOTION TO**
) **DISMISS PLAINTIFF'S COMPLAINT,**
) **OR IN THE ALTERNATIVE, MOTION**
) **FOR MORE DEFINITE STATEMENT**
) **ALTERNATIVE, MOTION FOR MORE**
) **AND MOTION TO SET ASIDE ENTRY**
) **OF DEFAULT**
) **NO ORAL ARGUMENT, UNLESS**
) **REQUESTED BY THE COURT**

) Date: May 12, 2008

) Time: 11:00 a.m.

) Courtroom: 4

) Judge: Hon. William Q. Hayes

) Demand for Trial by Jury Pursuant
) to U.S. Constitution, 7th Amendment
) May 9, 2008

**PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION TO STRIKE THE DEFENDANTS' NOTICE ON NON-
OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE
ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT AND MOTION
TO SET ASIDE ENTRY OF DEFAULT**

I.

SUMMARY OF PLAINTIFF'S COMPLAINT AGAINST THE DEFENDANTS'

COUNSEL, NATHAN HICKS

The Plaintiff, received the "Defendant University of Phoenix, Inc.'s notice of non-opposition to motion to dismiss plaintiff's complaint, or, in the alternative, motion for more definite statement and motion to set aside entry of default (these documents were also sent by the remaining defendant parties). This is not the first time the Plaintiff has not received all of the documentation necessary to successfully defend himself before this honorable Court (Please see previous notification in the ". It is the Plaintiff's Affidavit that he never received the said documents. This may be found in the "PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANT'S DOCUMENT ENTITLED: "APOLLO GROUP, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT", page 2, paragraph 1, which states; "Additionally, the Defendant neglected to send page 8 of the original document entitled, "APOLLO GROUP, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT" to the plaintiff. The plaintiff was forced to go the county clerk's office of the court to confirm a missing page and get a copy of the missing page."

Also of ethical concern is the counsel's blatant disregard for the integrity of the Court. This is evidenced by his recent submittal of the defense's document entitled "PLAINTIFF'S REPLY TO THE UNIVERSITY OF PHOENIX, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT", pages 3 through 4.

1 The counsel's apparent lack of concern for the Plaintiff's rightfully sworn human right
2 to file a complaint in the United States Federal Court in an honest, competent manner. I have
3 upheld my ability to perform my duty of honesty owed to the Court with the highest of
4 esteem. However, the Plaintiff's ability to represent himself as a proper Pro Se attorney has
5 been obstructed by the Defendants' counsel, Nathan Hicks, of Snell & Wilmer, L.L.P. For
6 further evidence of the counsel's ethical consideration awarded to the Plaintiff as a
7 professional colleague and participant in the pursuit of Justice, please see the Plaintiff's
8 "Notice to the Court" submitted on March 3rd 2008, which also cites Mr. Hicks, as "mistaken"
9 as he has often cited as a defense, albeit however un bonified it is in the Court of law, the
10 practices by the counsel Mr. Hicks appear to be deceptive, unethical in nature. If the Mr.
11 Hick's culpability and contempt for the Pro Se Plaintiff, and the Court continue, the Plaintiff
12 will deem no other option available, but to report Mr. Hick's unethical behavior to the
13 California Bar Association for review.

14 It is the Plaintiff's notice to the Court as well, that it is ultimately his responsibility to
15 travel to the Clerk's District Court office to reassert the completeness of documents sent to the
16 Plaintiff by the Defendant, the Plaintiff expresses his deepest regret and apologies to the
17 Honorable William Q. Hayes. The Plaintiff should have properly prepared himself for a
18 deceptive strategy such as this, especially in consideration of the Defendant and the
19 Defendants' attorney's regard and actions towards the equality of the Plaintiff. The Plaintiff
20 throws his merciful plea for honesty and justice regarding his review of the case on May 12,
21 2008, at 11:00 a.m., to the Hon. William Q. Hayes, of the United States Federal Court. Thank
22 you very much for your time and consideration regarding the aforementioned claims set forth
23
24

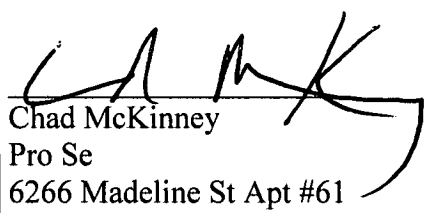
1 in this "NOTICE TO THE COURT REGARDING THE DEFENDANTS' COUNSEL,
2 NATHAN HICKS, QUESTIONABLE, AT BEST, ETHICAL PRACTICES"

3 **II.**

4 **CONCLUSION**

5 In consideration of this document, the Plaintiff moves the Court to strike the
6 Defendants' document entitled "DEFENDANT UNIVERSITY OF PHOENIX, INC.'S
7 NOTICE OF NON-OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S COMPLAINT,
8 OR IN TH ALTERNATIVE, MOTION FOR DEFINITE STATEMENT AND MOTION TO
9 SET ASIDE ENTRY OF DEFAULT" and grant the Plaintiff an exception to the F.R.C.P rules
10 of filing timely, and accept this document as an Opposition to the Defendants' aforementioned
11 document.

12
13 Respectfully submitted,

14
15 
16 Chad McKinney
17 Pro Se
18 6266 Madeline St Apt #61
19 San Diego, CA 92115
20 619-634-3566
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CERTIFICATE OF SERVICE

I, Chad McKinney, hereby certify that on, May 9, 2008, I served copies of the Plaintiff's Motion and Memorandums of Points and Authorities to the court regarding his concern for counsel Nathan Hick's questionable, at best, ethical practices and appendices to the Court on the following parties by way of United States Postal Service First Class Priority Mail:

Snell & Wilmer L.L.P.
Attention of: Nathan W. Hicks
600 Anton Boulevard, Suite 1400.
Costa Mesa, CA 92626

5/9/08
Date

CA McKinney
Chad McKinney

The United States District Court Southern District of California

1 Chad McKinney
2 Pro Se
3 6266 Madeline St Apt #61
4 San Diego, CA 92115
5 619-634-3566

6 **THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA**

7 **May 9, 2008**

8 **BY HAND DELIVERY**

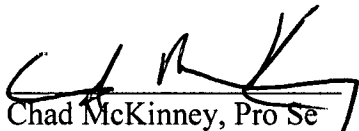
9 The Honorable Judge William Q. Hayes
10 Referred to: Magistrate Judge Cathy Ann Bencivengo
11 330 West Broadway, San Diego
12 CA 92101-3827

13 Re: McKinney v. Apollo Group Inc., *et al*
14 Civil Action 07-cv-2373

15 Dear Judge Hayes,

16 Enclosed is a courtesy copy of the Plaintiff's Motions and Memorandums of Points and Authorities to
17 the court regarding his concern for counsel Nathan Hick's questionable, at best, ethical practices and
18 request to strike the Defendants' document. This was hand delivered with the Clerk today.

19 Respectfully,

20 
Chad McKinney, Pro Se

21 Cc: Snell & Wilmer L.L.P.; Attention of: Nathan W. Hicks
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